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| APPLICATION NO.                                                                        | FILING DATE | FIRST NAMED INVENTOR   | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|----------------------------------------------------------------------------------------|-------------|------------------------|---------------------|------------------|
| 10/723,080                                                                             | 11/26/2003  | Federico Loeffler-Lenz | L0493.11U           | 7873             |
| 29633                                                                                  | 7590        | 07/06/2006             |                     | EXAMINER         |
| ROGERS TOWERS, P.A.<br>1301 RIVERPLACE BOULEVARD, SUITE 1500<br>JACKSONVILLE, FL 32207 |             |                        | BUTLER, PATRICK     |                  |
|                                                                                        |             |                        | ART UNIT            | PAPER NUMBER     |
|                                                                                        |             |                        | 1732                |                  |

DATE MAILED: 07/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                            |                  |  |
|------------------------------|----------------------------|------------------|--|
| <b>Office Action Summary</b> | Application No.            | Applicant(s)     |  |
|                              | 10/723,080                 | LOEFFLER-LENZ    |  |
|                              | Examiner<br>Patrick Butler | Art Unit<br>1732 |  |

*– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –*  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

1) Responsive to communication(s) filed on 26 November 2003.

2a) This action is FINAL.                            2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

4) Claim(s) 1-22 is/are pending in the application.

4a) Of the above claim(s) 1-15 is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 16-22 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date 20031126.

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_.

**DETAILED ACTION**

***Election/Restrictions***

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-15, drawn to a form, classified in class 249, subclass 175.
- II. Claims 16-22, drawn to a method, classified in class 264, subclass 33.

The inventions are distinct, each from the other because of the following reasons:

Inventions II and I are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another and materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the apparatus as claimed can be used to practice another and materially different process such as a method comprising filling the cavity with polyurethane (rather than concrete) and allowing said polyurethane to cure.

Because these inventions are independent or distinct for the reasons given above and have acquired a separate status in the art in view of their different classification, restriction for examination purposes as indicated is proper.

During a telephone conversation with Thomas Saitta on 06 June 2006 a provisional election was made without traverse to prosecute the invention of Group II, claims 16-22. Affirmation of this election must be made by applicant in replying to this Office action. Claims 1-15 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 16-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Trimble (US Patent No. 3,729,165) in view of Tran et al. (US Patent No. 5,464,886).

With respect to Claim 16, Trimble teaches a method of forming a cavity within a concrete structure comprising the steps of providing a plurality of section members comprising a flexible mold skeleton member 28, joining said section members to each other to create a three dimensional form (see Fig. 3), poring concrete onto said form, allowing said concrete to cure, and disassembling and removing said section members (see Abstract).

Trimble does not teach utilizing a polymer-aggregate concrete panel member within the plurality of section members.

Tran et al. teach applying a polymer concrete on metal structures (see Abstract). The concrete has filler up to 200 mesh size (aggregate) (see col. 4, lines 53-67).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Tran's polymer concrete coating to the form of Trimble in order to protect the metal (see Tran, col. 3, lines 12-15).

With respect to Claim 17, Trimble's annular flanges 34 and 36 and pair of longitudinal flanges 40 are on the top and bottom of the tubular wall portion (extend to both sides of said tubular wall portion) (see Fig. 3).

Tran teaches that the concrete is sprayed on the exterior of the metal (see Abstract) and forms a smooth surface (see col. 6, lines 7-9).

With respect to Claim 18, Trimble teaches clamping bolts (mechanical fasteners) are used on the interior flanges (see col. 2, lines 25-34).

With respect to Claim 19, the structure has an opening 50 with a gate 52 (spacer) occupying the space (see col. 3, lines 36-55). Note that the gate provides for a smooth surface on the concrete structure side, which meets the limitation of the claim.

Claims 20-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Trimble (US Patent No. 3,729,165) in view of Tran et al. (US Patent No. 5,464,886) as applied to claims 16- 19 above, and further in view of Lake (US Patent No. 1,552,064).

With respect to Claims 20-22, Trimble in view of Tran teaches molding concrete with section members as previously described.

Trimble further does not expressly teach internally pressurizing the form.

Lake teaches making a concrete form and internally pressurizing the internal form (see page 1 of text, lines 30-47).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Lake's pressurizing internal core with the method of molding concrete as taught by Trimble in order to do away with all trapped air and uncombined moisture as well as provide uniform density and homogeneous texture (see Lake, page 1 of text, lines 30-47).

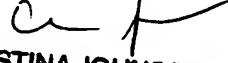
### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patrick Butler whose telephone number is (571) 272-8517. The examiner can normally be reached on Mo.-Th. 7:30 a.m. - 5 p.m. and alternating Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Johnson can be reached on (571) 272-1176. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Patrick Butler  
Assistant Examiner  
Art Unit 1732

  
CHRISTINA JOHNSON  
PRIMARY EXAMINER  
